

# WISCONSIN LEGISLATIVE COUNCIL STAFF

## ***RULES CLEARINGHOUSE***

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## **CLEARINGHOUSE RULE 96-166**

### **Comments**

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]**

#### **2. Form, Style and Placement in Administrative Code**

- a. In the first sentence of s. Adm 68.01, “describes” should be replaced with “establishes.” A similar change should be made in s. Adm 68.04 (1).
- b. Throughout the analysis and the text of the rule, the terms “manufactured home” and “manufactured/mobile home” are used, apparently in reference to what the statutes refer to as mobile homes which are “primary housing units.” Perhaps an appropriate definition of “manufactured home” should be added to s. Adm 68.02 and that term should be used consistently throughout the rule. See Clearinghouse Rules 96-164 and 96-165.
- c. Various provisions in the rule refer to a “representative license” or “representative.” This term is not defined in the rule or the statutes. The term “representative license” should either be deleted or defined.
- d. In s. Adm 68.03 (1) (b), “The” should replace “Such.”
- e. Section Adm 68.03 (2) (b) 1. should end with a period.
- f. The terms “branch” and “sublot” in s. Adm 68.04 (1) should be defined.

#### **4. Adequacy of References to Related Statutes, Rules and Forms**

- a. The citation of the statutory authority for promulgation of the rule should include ss. 218.11 (2) (b) 2. and 218.12 (2) (b) 2., Stats., as those sections grant the department authority to

establish a uniform expiration date for all licenses issued to mobile home dealers and salespersons.

b. In s. Adm 68.02 (intro.), it appears that the reference should be to “chs. 218 and 340, Stats. Chapter 341, Stats., merely cross-references the definitions in ch. 340, Stats. Also, the (intro.) should end with “In this chapter:”.

c. The rule does not repeal ch. Trans 144. Is this intentional? See Clearinghouse Rule 96-165.

##### **5. Clarity, Grammar, Punctuation and Use of Plain Language**

a. In s. Adm 68.03 (1) (b), a period should be placed after “yrs”.

b. There appears to be a conflict between s. Adm 68.03 (2) (a) 2. and par. (b) (intro.). Section Adm 68.03 (2) (a) 2. provides that a salesperson license remains valid until “(t)he person ceases employment with the dealer or other licensed business.” It appears that under this provision, a salesperson license remains valid as long as the salesperson is employed by any licensed mobile home dealer. In other words, the salesperson may change his or her place of employment, but as long as he or she is employed by a licensed mobile home dealer, his or her salesperson license is valid. In contrast, s. Adm 68.03 (2) (b) (intro.) refers to a person whose salesperson license is “invalidated by ceasing employment with a licensed dealer” and requires the person to apply to the department for a reissuance of the salesperson license. This apparent discrepancy should be corrected.

In addition, s. Adm 68.03 (2) (b) (intro.) refers to licenses being invalidated by “ceasing employment with a licensed dealer” and sets forth the conditions which must be met for reissuance of the license. However, the previous paragraph sets forth two other scenarios under which the license may become invalid: when the business license held by the person’s current employer expires and when the person’s employer goes out of business. It is unclear whether the procedure set forth in par. (b), which applies to those persons whose licenses are invalidated by “ceasing employment” apply to the other situations described in par. (a) as well. If so, par. (b) should be rewritten to make this explicit; if not, the rule should set forth the procedure, if any, to be followed for reissuance of a license under those scenarios.

c. In s. Adm 68.03 (2) (b) 1., what is the purpose of making the reissuance of a salesperson’s license dependent upon the date of expiration of the previous employer’s business license? What assurance is there that a salesperson is aware of the date of expiration of an employer’s business license? Would it be preferable to base the timing of the application for reissuance of a salesperson’s license on the period of time for which he or she has been employed by the new employer?

d. Section Adm 68.03 (2) (b) 2. requires that the person’s current employer hold “the same type of business license” as a person’s previous employer in order to be eligible for reissuance of his or her salesperson’s license. It is unclear what is meant by the phrase “the same type of business license,” because the term “business license” is a defined term and by virtue of that definition, there is only one type of “business license.”